

APPENDIX E

DETAILED GUIDANCE FOR REVIEWING LANDS UNDER EXECUTIVE ORDER 12512 AT CORPS OF ENGINEERS WATER RESOURCE PROJECTS

E-1. PURPOSE. To provide MSCs and districts guidance for reviewing lands under Executive Order (EO) 12512.

E-2. POLICY. It is the policy of the Corps to efficiently manage those lands at water resource projects which would be acquired in accordance with the 1971 implementation of the 1962 Army/Interior Joint Acquisition Policy.

E-3. GUIDANCE.

a. EO 12512 surveys will be conducted pursuant to provisions of the Federal Property Management Regulations (FPMR) (41 CFR part 101-47.8) and Chapter 8 of ER 405-1-12.

b. When establishing or confirming the 1971 implementation guide contour, use updated rainfall criteria and current methodology in predicting the maximum designed flood. At some projects, new meteorological data may indicate an increase in the design storm and a requirement for additional flood control storage capacity.

c. If land is identified as excess, rights-of-way easements should be retained to remaining Federal lands, if appropriate.

d. Lands not encompassed by the Joint Acquisition Policy will be retained if:

(1) They are leased for park and recreation purposes.

(2) They are licensed for fish and wildlife purposes.

(3) They are identified or nominated for consideration as critical habitat under the Endangered Species Act.

(4) They were acquired for, or are needed for, formally documented mitigation purposes.

(5) They are existing recreation areas operated by the Corps, or are designed as future recreation areas in the master plan.

(6) Excessing will not yield a net return to the Treasury. Such costs must be documented and made part of the survey report.

(7) Excessing will increase the costs of the government to manage remaining project lands. Such costs must be documented and made part of the survey report.

(8) Excessing will create significant management problems with regard to remaining project lands. Such management problems must be documented and made part of the survey report.

e. This guidance does not apply to lands withdrawn from the public domain.

E-4. ADDITIONAL CONSIDERATIONS.

a. The option exists to consider for excessing Corps lands which are leased, licensed, or permitted; this action must be fully justified. A long-term lease, license, or permit is not to be considered as the sole justification for excessing or retention, except for park and recreation and fish and wildlife leases and licenses.

b. When park and recreation and fish and wildlife leases and licenses expire or are terminated, the lands shall be reexamined for a determination of excess.

c. When conducting surveys, full consideration should be given to prior commitments as a result of public involvement in the project planning process.

d. The land excessing policy is modified so that land which is occasionally flooded and on which the government's interests can be fully protected through the use of easements, should not be automatically excluded from consideration for possible disposal.